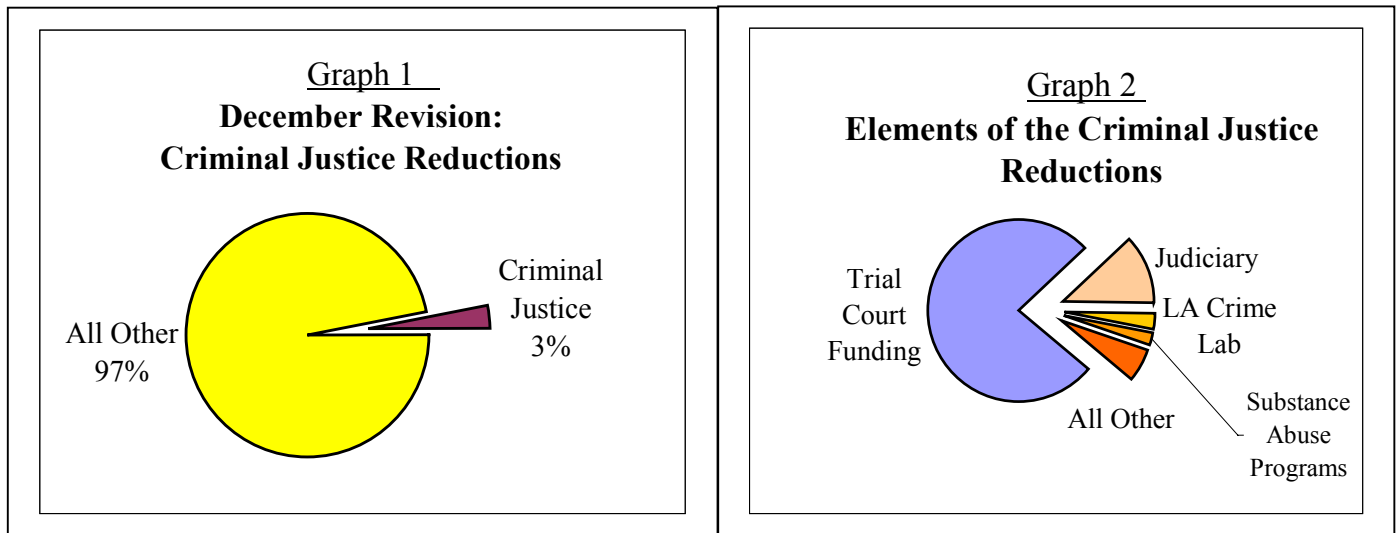


Criminal Justice

CRIMINAL JUSTICE

The December Revision reduces the Judiciary, Trial Court Funding and Corrections by a total of \$ 324 million, or about three percent of the total reductions. Graph 1 illustrates the point.

Of the amount proposed for reduction, Trial Court Funding takes the largest reduction, followed by the Judiciary's unallocated reduction, planning for the Los Angeles Crime Lab and certain substance abuse programs. Please see Graph 2 for details.



JUDICIARY

The December Revision reduces by \$10 million the Judiciary's current-year budget. This amount represents a 3.4 percent reduction from the total General Fund budget of \$292.1 million for the Supreme Court, the courts of appeal and the Judicial Council. The Administrative Office of the Courts (AOC) indicates that it is likely to achieve these savings through holding positions vacant, delaying employee promotions and reclassifications, restricting travel, reducing temporary help, deferring contracts, and reducing the number of Judicial Council and Advisory Committee hearings. The AOC staff indicate that actions are currently being taken to achieve these savings.

The Judiciary's 2002-03 budget includes a total of \$6.7 million in one-time reductions. Staff notes that proposed reductions are not one-time in nature.

The revision also proposes a \$29 million unallocated reduction for the Judiciary in the budget year. At this time, staff is unaware of where these reductions are likely to be taken or the effect of these reductions on operations of the courts.

TRIAL COURT FUNDING

For Trial Court Funding, the December revision proposes a \$50 million unallocated reduction in the current year. This amount represents a 4.3 percent reduction from the total General Fund support of \$1.2 billion for Trial Court Funding. The AOC indicates that these savings are likely to be achieved by the local trial courts through holding positions vacant, reducing temporary help, work furloughs, reducing consulting services expenditures, and delaying equipment and office supply purchases. The AOC staff indicate that generally the trial courts are currently taking actions to achieve these savings.

The previously approved 2002-03 budget for Trial Court Funding included a total of \$89.6 million in one-time reductions and a transfer of \$28.1 million from the Trial Court Improvement Fund to the General Fund.

The revision also proposes a \$200 million unallocated reduction in the budget year for Trial Court Funding. At this time, staff is unaware of where these reductions are likely to be taken or the effect of these reductions on operations of the local trial courts.

CORRECTIONS

The December Revision does not include significant reductions to the Department of Corrections (CDC) budget. Below, staff suggest reductions the Legislature may wish to consider.

Delay Delano II. Delano II is scheduled for activation in December 2003. The CDC reports that a one-year delay in the activation schedule would save \$2.9 million in the current year and \$9.1 million in the budget year.

Close a Women's Facility. The department's female inmate population is declining. Between June 30, 1999 and June 30, 2002, the female population at CDC institutions dropped by 1,657 inmates, or about 17 percent. Based on the Fall 2002 projections, the female inmate population is expected slowly decline through June 2008.

With significant declines in the female inmate population, the Legislative Analyst recommends closure of the Northern California Women's Facility (NCWF) last year. The CDC estimates savings of \$1.4 million in the current year and \$10.2 million in the budget year.

The inmates would likely be relocated to Chowchilla -- about 1 ½ hours farther from the Bay Area -- making it much harder for visitations. Last year, the Legislature directed CDC to report on alternative uses for NCWF. The CDC would not need any legislation to close NCWF, although converting it for other uses would require legislation.

Intermediate Sanctions for Technical Parole Violators. Options could include day-reporting centers. The CDC is working on alternatives and cost estimates.

Increasing Good-Time Credits for certain inmates. Currently, inmates who participate in work or education programs are eligible to earn credits to reduce the amount of time that they spend in state prison. Last year the Legislature approved an increase in credits to two days for every one day served for inmates serving in fire camps. Increasing credits for inmates in reception centers and inmates waiting to be assigned to educational and work programs to one day for each day served would save at least \$10 million in the budget year and \$25 million annually. This amount would only include inmates eligible for day-for-day credits and lifers, strikers, and excludes offenders whose offense is serious and violent. This option would require legislation to implement the change.

Direct Discharge from Prison. Last year the LAO raised the option of adopting Legislation to exempt certain non-violent, non-drug sale offenders from parole supervision. The CDC indicates that budget year savings would be \$33.2 million as CDC implements the changes, with savings of approximately \$113 million in 2004-05. The types of commitment offenses for individuals who would no longer be under parole supervision include: Petty Theft with a Prior, Receiving Stolen Property, Forgery/Fraud, Other Property Crimes, Possession of a Controlled Substance, Grand Theft, Vehicle Theft, Possession of a Weapon, Escape, Hashish Possession, Burglary (1st and 2nd), and Driving Under the Influence.

Early Discharge from Parole. Under this option, parolees with nonviolent offenses who have served a certain amount of “clean time” on parole would be eligible for early discharge from parole. Last year during the budget process, the LAO estimated that the amount of saving would depend upon the length of clean time prior to discharge, ranging from \$50 million for six months to \$23 million for 12 months. Any change would require legislation.

Early Release from Prison. Under this option, inmates would be released to parole 1 to 12 months early. This option excludes lifers, strikers, sex registrants, and violent or serious offenders from early release. CDC estimates that the potential savings range from \$10.1 million in 2003-04 and \$20.1 million in 2004-05 for one month early release to \$131.7 million in 2003-04 and \$261 million in 2004-05 for 13 month early release.

Elderly Inmates – Release to Parole. This option provides that non-violent, non-serious offenders 60 or over would be released directly to parole. Last year during the budget process, the LAO estimated that first year savings from this option would total \$3.4 million. The CDC will provide updated cost savings projections.

Removing State Prison as an Option for Certain Offenses. The CDC estimates that budget year savings of \$28.8 million (based on

implementation in January 2004) could be achieved by removing state prison as an option for the following offenses: Petty Theft with a Prior, DUI, Other Property Offenses (Perjury, Bribery, etc.), Drug Possession, Hashish Offenses, Receiving Stolen Property, Drug Possession for Sale, Vehicle Theft, Grand Theft, Forgery/ Fraud.

Parole in Lieu of Prison for Inmates with Short Commitments. This option provides that certain non-violent, non-serious, non- sex registrant offenders with short commitments would go directly to parole rather than to prison. Savings under this option would vary depending upon how you define short commitments. CDC will provide estimates for inmates with commitments of 3, 6, 9, and 12 months. Assuming partial year implementation, the option would provide savings of \$1 million for commitments of 3 months up to \$24.8 million for commitments for up to 12 months in 2003-04 and \$2.5 million for 3 months up to \$132 million for 12 months in 2004-05.

Petty Theft made a Misdemeanor. Legislation eliminating state prison as a sentencing option for persons convicted of Petty Theft with a Prior with no other felony would result in some persons not going to state prison. Based on an earlier bill analysis, the CDC projects partial year savings of \$14.6 million in the first year of implementation and future savings of \$33.8 million.

Statutory Law Changes Could Reduce CDC Costs. The Legislature may wish to consider the following statutory law changes:

1. Raise threshold for grand theft (a wobbler) from \$400 to \$800 or \$1000. Double the threshold amounts for all other special grand theft statutes. Similar proposal was in a version of SB 1679 (Kopp) – 1998. Senate Appropriations cost savings estimate for raising threshold to \$750 was "Potential unknown savings in state prison. General fund incarceration costs; Potential unknown increased costs for county jail, local and probation; Unknown increased costs to DOF, probably under General fund \$150k annually, beginning as early as 2003-04" – the relevant provisions were deleted before bill went to Assembly Appropriations Committee.

2. No life term under the Three Strikes law for petty theft with a prior (wobbler) or second degree burglary where the target crime is shoplifting (in the current case). Sher bill from 2002 – SB 1719; Senate Approps 28.8'd this bill but provided no "cost savings" estimate; according to the LAO, as of May 2001, 333 inmates were serving a life term under the Three Strikes law for petty theft with a prior theft conviction. According to LAO and the California Department of Corrections (CDC), in August 2000, there were 323 inmates serving such a sentence. May 2001 - 441 inmates were serving a life term under the Three Strikes law for second-degree burglary. This report did not indicate how many of these offenses could also have been described as petty theft, and particularly shoplifting. August 2000 - 426 inmates were serving a life term under the Three Strikes law for second-degree burglary. Again, no details of these offenses could be determined from the data. August 2000 Data - 4,509 inmates were serving a double (second strike) term for petty theft with a prior; August 2000 - 3,595 inmates serving doubled (second strike) term for 2nd degree burglary.
3. AB 1037 (Vasconcellos) – 1995 – would have provided that no person who is convicted of petty theft shall be punished by imprisonment in the state prison, unless he or she has been previously convicted of a violent or serious felony. Died in Assembly Public Safety.
4. Substance of SB 1517 (Polanco) - 2002 - eliminating Three Strikes sentences for specified non-violent offenses. Senate Appropriations Committee 28.8'd SB 1517; no "cost/savings estimate" available.
5. Hold off on construction/operation of new SVP facility at Coalinga (within perimeter of the state prison; those "patients" currently housed at Atascadero). [Sen Budget states that Health and Human Services should have cost estimates for the new facility.]
6. Immediate release on parole, with drug treatment available, for any inmate sentenced for a crime that would have been Prop 36 eligible if he/she had been sentenced at the time Prop 36 was in effect. Transfer of portion of cost savings to the Prop 36 trust fund.

7. Alternatively, release non-violent, low-level drug offenders without parole. Note that such persons would still be eligible for Prop 36 treatment if they pick up new drug cases after release.
8. Early release for non-violent inmate who have a reasonably good conduct record. (I.e., no violent history or incidents.) See #14 below for earlier LAO recommendations.

Dec. 16, 2002 LAO comments: Corrections/Discharge nonviolent parolees early/2002-03 Savings - \$12.6 mil [Savings range from \$5.9 million to \$12.6 million]/ 2004-03 Savings - 50.4 [Savings range from \$23.4 million to \$50.4 million.]

9. Restore judicial discretion on mandatory sentence enhancements, include 5-year priors (§ 667, subd. (a)) prior prison term (§ 667.5, subd. (b)) and gun enhancements. Require statement on the record for discretion.
10. Reduce possession for sale of cocaine base to be equivalent to powdered cocaine.
11. Marijuana possession under an ounce as only an infraction. See SB 791 (McPherson) - 2001 - first proposed by Judge Kopp; as drafted, Assembly Appropriations Committee found: "Potential minor trial court savings. By making the offense an infraction rather than a misdemeanor, an offender will no longer have a right to a jury trial or a court-appointed attorney." Under current law, there is no pressing inducement for a defendant to plead guilty to misdemeanor possession, because there is no jail time allowed and only a \$100 fine upon conviction.
12. Mandatory review for release on "direct discharge" from prison. Define inmates who should be directly released without parole. (Previously recommended by LAO.)
13. Reform California drug forfeiture to require judicial approval before forfeiture case transferred to federal court. SB 1866 (Vasconcellos) - vetoed in 2000 - Assembly Appropriations cost estimate:

- GF revenue loss of about \$5 million based on the shift of funds from the GF (because the school safety program referenced in statute no longer exists), to drug prevention and treatment. No net cost as a result of the redirection from local gang prevention to drug abuse prevention and treatment. (Based on the past two years, state asset forfeiture law results in annual proceeds of about \$20 million.)
- Unknown, but potentially significant asset forfeiture revenue reduction as a result of making it more difficult to use the more lenient federal forfeiture procedures. Under federal law, up to 80% of forfeiture proceeds go to seizing agencies, with at least 20% to the federal government. The state DOJ receives about \$1.8 million annually from federal asset forfeitures.

Review prepared by:

Alison Anderson, Senate Criminal Procedures Committee

Simon Haines, Senate Criminal Procedures Committee

Mary Kennedy, Senate Criminal Procedures Committee

Alex MacBain, Senate Budget and Fiscal Review Committee

Gene Wong, Senate Judiciary Committee